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SUBJECT: MEXICO'S HUMAN RIGHTS COMMISSION: THE GOOD, THE BAD, AND THE MONEY

¶1. (SBU) SUMMARY: Mexico's National Human Rights Commission (CNDH) with its \$72 million budget was created in the wake of demands and pressure on Mexico's government to investigate crimes of the "dirty war" and with a mandate to investigate, report and recommend measures to address human rights concerns. While it has won praise for its often exhaustive reports on abuses around the country, the human rights NGO community has criticized the CNDH for not exerting enough pressure on government institutions to end impunity for abuses and for not effecting positive change. Jose Luis Soberanes Fernandez, the Commission's controversial director, has not improved the organization's image. End Summary.

Aspiring to Autonomy

¶2. (U) In the face of criticism of its human rights performance dating back the 1960's, as well as increased expectations among international organizations such as the UN, the Mexican Government came under increased pressure to more effectively address concerns about abuses. Despite several attempts at the state level, it was not until 1989, that Mexico's Secretariat of Government (SEGOB) created a General Human Rights Directorate as a subordinate office tasked with looking into allegations of human rights abuses. In 1990, under presidential decree, the General Human Rights Directorate was renamed the National Human Rights Commission (CNDH).

¶3. (U) CNDH remained a part of the SEGOB until 1999 when the Mexican Congress adopted a constitutional reform declaring it autonomous and freeing it from direct government oversight. CNDH continues, however, to rely entirely on the congress for funding, and the Mexican Senate appoints its President.

Who Does What?

¶4. (U) The CNDH's structure is comprised of five major bodies: the Presidency, the Consultant Council, the Technical Secretariat of the Consultant Council, the Executive Secretariat and the General Visitorship. Of the five bodies, the Consultant Council and the General Visitorship are the most important. The former consists of ten academic members appointed by the Senate and is responsible for establishing the CNDH's general guidelines, approving the Commission's internal rules and overseeing the budget. The CNDH's President serves as the head of the Council.

¶5. (U) The General Visitorship, of which there are five undersecretaries or "visitors", is responsible for investigating allegations of abuses committed during the "dirty war," gender violence, trafficking in persons, migration issues, complaints against federal agencies, prison conditions and indigenous affairs. Each undersecretary is assigned staff who investigates human rights complaints. During a meeting with Poloff on 9 June, CNDH Executive Secretary Dr. Javier Moctezuma said each undersecretary was responsible for following up on all recommendations issued by

the Commission and for reporting to the CNDH's President when (1) recommendations are rejected, (2) recommendations are accepted with proof of total fulfillment, (3) recommendations are accepted with proof of partial fulfillment, and (4) when recommendations are accepted but lack satisfactory proof of fulfillment. CNDH boasts its own forensics collection team and a private lab, adding that the PGR's samples are often contaminated. During a recent meeting with Poloff, CNDH Second Visitor Dr. Susana Pedroza remarked the Commission's medical expert and forensics team are available to any state human rights commission by request.

States Commissions Get Into the Act on Their Own

¶6. (SBU) State human rights commissions perform the same functions as the CNDH and are divided into autonomous and non-autonomous bodies. State congresses fund autonomous state commissions and appoint their presidents. Non-autonomous commissions, on the other hand, rely directly on state governors for their funding and to appoint their presidents. Of the 32 Mexican states, approximately 10 host autonomous state commissions. Of non-autonomous commissions, Edgar Cortes, Director of Mexico City based NGO Human Rights Network (REDTDT), complained state governors interfered with the independence of the commissions' work by deciding which human rights complaints should be investigated and which rejected.

¶7. (SBU) The CNDH and state commissions each have their own mandates and operate independently of each other. CNDH will, however, invoke jurisdiction over a case if (1) it involves a federal official or agency, (2) a complainant is not satisfied with the state commission's recommendation or (3) if state or local authorities reject the state commission's recommendation. National and state commissions meet regularly but enjoy no formal relationship; issuing recommendations independently of each other. State human rights commissions are, according to Cortes, more open than the CNDH to dialogue with the NGO community but only on certain cases. He commended state commissions in Guerrero and Jalisco for their transparency but criticized Oaxaca for closing avenues of communication with civil society.

Some Complaints are More Important Than Others

¶8. (U) Anyone can file a human rights complaint with CNDH, but complaints must be written and include the petitioner's personal information (i.e. age, DOB, etc.), a complete description of the alleged human rights violation and an official signature or if the complainant is not literate, a fingerprint. In urgent cases, complaints filed electronically, by telephone or orally before any member of the CNDH are also accepted. When the whereabouts of a person are unknown, relatives or friends, including minors can file complaints on an individual's behalf. NGOs also have legal authority to go before the Commission and report human rights violations. A complainant has 365 days from the date of an incident to file a human rights complaint and if requested, the CNDH can extend the deadline.

¶9. (U) Once an allegation of human rights abuse has been analyzed and it has been determined that the CNDH has jurisdiction to proceed, the complainant is notified and the case passes to one of the five responsible undersecretaries for further investigation. If there is any confusion regarding the details of the case, the complainant has 30 working days to gather and submit the required information to the Commission before the case is archived. (Note: If an allegation of human rights abuse does not fall under the Commission's jurisdiction, the written complaint is given to the pertaining authority.) If a federal entity fails to deliver reports or supporting documents related to an allegation of human rights abuses, CNDH officials contend "the facts of the complaint will be confirmed." Once the appointed undersecretary completes the investigation, a non-binding recommendation is issued. President Calderon has

urged all officials to accept the Commission's recommendations and according to Dr. Moctezuma, 95% of CNDH recommendations are accepted at the federal level. The CNDH also promotes human rights education and awareness through annual seminars, conferences and human rights courses.

¶10. (U) Over a 17 year period, CNDH has received more than 106,227 complaints and issued 1,912 recommendations. According to its statistics, 104,685 or 98.5 percent of the complaints were resolved satisfactorily. A resolution is generally achieved either through formal reconciliation with the authorities during the investigation process or through compensation to the complainant. The CNDH reports that federal, state and local officials generally complied with the organization's recommendations by agreeing to participate in CNDH sponsored courses and workshops.

¶11. (U) The CNDH groups complaints in several different categories, including arbitrary detention, improper exercise of public duty, and cruel and unusual punishment. CNDH told us that the majority of complaints received nationally are related to dereliction of duty, rather than conventional human rights abuses.

CNDH Comes in for Complaints by NGOs

¶12. (U) CNDH's \$72 million budget is appropriated by the Mexican Congress. According to many NGO's, its GOM funding and the fact that its President is appointed by the Senate means it cannot fully posit itself as an autonomous organization free of GOM influence. Jose Miguel Vivanco, the Americas Director at Human Rights Watch remarked that while CNDH "does a decent job documenting abuses and identifying problems, it doesn't take crucial steps needed to bring about change." Consensus within the NGO community is consistent with Vivanco's observation. NGO's also complain frequently about the Commission's lack of transparency and its thinly disguised disdain for civil society organizations. One human rights organization claims that a technical agreement between the High Commission for Human Rights (UNHCR), which permits evaluation of the CNDH's performance by international experts, has never been honored by the latter.

¶13. (SBU) CNDH President Jose Luis Soberanes Fernandez has also done little to counter such criticism. In fact, he has courted controversy during his tenure. The first president since the Commission became autonomous in 1999, Soberanes has been accused of using his organization to target personal enemies, including former President Vicente Fox. Soberanes has also demonstrated thin-skin, reacting bitterly to criticism of his organization's human rights efforts.

¶14. (SBU) However, while the organization is accused by NGO's of being too close to the GOM, the attitudes demonstrated by its leadership are often highly antagonistic to the government here. Soberanes' feud with former president Fox was fierce, and he sharply criticized both the current Attorney General and Public Security Secretary for their role in prior standoffs between security forces and citizens which led to human rights accusations. More recently, he criticized the use of the military to combat the cartels and claimed that military officers had prevented CNDH officials from fully investigating abuse allegations.

¶15. (SBU) Conversations with two senior CNDH Visitors - Second Visitor Pedroza and First Visitor Dr. Raul Plascencia - demonstrate the depth of the organization's antipathy toward the GOM. Plascencia said the government's progress in the war against the cartels was "minimal" in comparison to the number of casualties. With civilian deaths rising, he criticized the government for its failure to provide concrete, statistical evidence regarding the number of individuals arrested and detained for narcotics trafficking since the beginning of the year. He claimed that the GOM did not have the support of affected communities and that narcotraffickers appeared virtually unaffected by the government's increased public security efforts. Instead of

deterring narco-activities in precarious areas, Plascencia said the government's efforts increased instability and retaliatory violence. Considerably more restrained than Plascencia, Pedroza commented that allegations of human rights abuses had increased in the past few years and were likely to hit record numbers this year.

¶16. (SBU) As for the charge that the organization's recommendations lack teeth, Plascencia said the Commission could inform the Mexican Congress when a federal entity refused to implement the Commission's recommendation. Pedroza made no mention of the Commission's ability to consult the Mexican Congress but said it was the responsibility of the accused organization to be accountable for its actions and to accept the Commission's recommendations. If the organization chose to ignore CNDH's suggestion, she remarked, there was nothing more that could be done.

¶17. (SBU) COMMENT: CNDH points to its human rights reports and recommendations as evidence of its contribution to the promotion of human rights in Mexico. Many of its reports are exhaustively researched and supported by extensive forensic evidence. Furthermore, its association with an extensive network of state commissions provides coverage far beyond what any private NGO could achieve.

¶18. (SBU) The human rights community holds CNDH to a very high standard, criticizing it for failing to more profoundly influence the GOM's record on human rights abuses -- far beyond the limits of an independent organization -- while insisting it function completely autonomous of the government. For its part, the organization has done little to engage civil society organizations. To garner respect for its efforts to defend human rights in Mexico, the CNDH will need to incorporate the broader human rights community into its human rights agenda. End Comment.

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